



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/567,632

08/16/2006

Matthias Meinhold

Tegel & Meyer

2465

24108 7590 10/27/2008

CARLTON FIELDS, P.A.

Attn: IP Dept.

P.O. BOX 3239

TAMPA, FL 33601-3239

EXAMINER

ANDERSON, GREGORY A

ART UNIT

PAPER NUMBER

3773

MAIL DATE

DELIVERY MODE

10/27/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/567,632	Applicant(s) MEINHOLD ET AL.	
	Examiner GREGORY A. ANDERSON	Art Unit 3773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-9, 11, 13 and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haber et al. 5,282,806 in view of Weiner 4,213,460.

Haber et al. discloses a device comprising: a housing 184; a spreadable gripper tool 10a; a spreader device 14a, separate from the gripper tool; a rotation device 82a; and a presser device 78a/232 that acts in the axial direction of the device to actuate the spreader device and the rotation device of the gripper tool. Haber et al. further discloses the gripper tool being detachable (Col. 6 ll. 25-28). Haber et al. further discloses a first actuation of the presser device effecting a spreading of the gripper tool by the spreading device: the actuation of rings 16a and 18a of Haber et al. is the first actuation and causes the presser device 232 to spread the gripper device. Haber et al. also discloses a second actuation (the pulling of trigger 80a) that effects the rotation of the gripper tool (Fig. 6A). Haber et al. further discloses the gripper tool being closed by the first actuation: actuating the rings 16a and 18a also affects the closing of the gripper. Haber et al. discloses the first actuation being into the device (the rings 16a and 18a move inward, into the device) and the second actuation being either into (pushing the trigger 80a) or outward (pulling the trigger 80a) both having the effect of rotating the gripper

Art Unit: 3773

(Figs. 6A-6B). Haber et al. discloses the gripper being formed of two segments 28A/28B. Haber et al. further discloses the segments of the gripper tool forming inward facing jaws (Fig. 9A). Haber et al. further discloses the gripper being interchangeable and replaceable (Col. 1 ll. 66-68). Haber et al. further discloses an ejector device that detaches the gripper tool (Col. 6 ll. 45-50). Haber et al. further discloses a spring force against which the spreading of the segments takes place (Col. 12 ll. 50-55).

However, Haber et al. does not disclose the gripper tool in its un-spread position encloses an essentially closed cavity that is designed to contain a tick.

Weiner discloses a gripper 22/24 that defines a closed cavity designed to contain a tick. Weiner further discloses the device having an apparatus to paralyze or kill the parasite (Col. 4 ll. 28-40) and that the gripper tool comprises a moisture dispenser (Col. 4 ll. 28-40). Weiner further discloses the gripper being coated in adhesive (Col. 5 ll. 5-8).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the device of Haber et al. with the gripper of Weiner in order to facilitate the secure gripping of the tick with the device.

3. Claims 10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haber et al. in view of Weiner as applied to claims 5 and 8 above, and further in view of Daniell 4,976,718.

Haber et al. in view of Weiner discloses the invention essentially as claimed as discussed above.

However, Haber et al. in view of Weiner does not disclose the segments of the gripper being elastic or comprising barbs.

Daniell discloses the segments of the gripper comprising barbs which due to their plastic construction will exhibit elastic recoil when bent.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the device of Haber et al. in view of Weiner with the barbs of Daniell to facilitate the close surrounding of the parasite without crushing or squeezing as taught by Daniell (Abstract II. 12-17).

4. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haber et al. in view of Weiner as applied to claim 5 above and further in view of Sandels 4,748,767.

Haber et al. in view of Weiner discloses the invention essentially as claimed as discussed above.

However, Haber et al. in view of Weiner does not disclose the device comprising a suction device connected to the gripper.

Sandels discloses using a suction device 14 connected to the gripper 4.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the device of Haber et al. in view of Weiner with the suction device of Sandels in order to cause the tick to release its bite and move to a new location in search of air as taught by Sandels (Col. 3 II. 28-30).

Response to Arguments

5. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREGORY A. ANDERSON whose telephone number is (571)270-3083. The examiner can normally be reached on Mon-Thurs 9:30am-3:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3773

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory A Anderson/

/Darwin P. Erezol/
Primary Examiner, Art Unit 3773